

Notice of Allowability

Application No.

09/977,406

Examiner

Anne Holleran

Applicant(s)

GARDE ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/15/2005.
2. ☒ The allowed claim(s) is/are 219 and 224-257.
3. ☒ The drawings filed on 15 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ~~8-10-05~~ 11/19/04, 12/3/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____ 8-4-05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

am holleran
ALANA M. HARRIS, PH.D.
PRIMARY EXAMINER
08/11/2005

Art Unit: 1643

PROPOSED EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark Svat on August 4, 2005.

The application has been amended as follows:

In the claims:

Claim 219. A polypeptide comprising at least two repetitions of the amino acid sequence [defined in] consisting of SEQ ID NO: 5, wherein the polypeptide inhibits the growth of prostatic adenocarcinoma.

Claim 224. A polypeptide of [from] at least 15 and no more than [15 to] 64 contiguous amino acids of SEQ ID NO: 1 [which] ,wherein the polypeptide inhibits the growth of prostatic adenocarcinoma, wherein the polypeptide comprises SEQ ID NO: 5.

In claim 226, line 1, the phrase "as defined in" was replaced by the phrase "consisting of".

Art Unit: 1643

Claim 227. A polypeptide which inhibits the growth of prostatic adenocarcinoma, said polypeptide having at least 50% of its amino acid sequence identical to the amino acid sequence [defined in] consisting of SEQ ID NO: 5.

Claim 228. A polypeptide which inhibits the growth of prostatic adenocarcinoma, said polypeptide having at least 70% of its amino acid sequence identical to the amino acid sequence [defined in] consisting of SEQ ID NO: 5.

Claim 229. A polypeptide which inhibits the growth of prostatic adenocarcinoma, said polypeptide having at least 90% of its amino acid sequence identical to the amino acid sequence [defined in] consisting of SEQ ID NO: 5.

EXAMINER'S COMMENT

Applicants requested, under In re Ochiai, that method claims be examined when product claims were deemed allowable. Therefore, the restriction requirement between groups III and XIa, set forth in the Office action mailed 7/29/2004, is withdrawn.

Support for examiner's amendment to claim 219 is found in the specification at page 23, lines 13-30 and page 27, line 1 to page 30, line 12.

REASONS FOR ALLOWANCE

Claims 227, 228, and 229 are allowable over the prior art and also raise no issues under 112, 1st paragraph, because each is drawn to a polypeptide having at least 50%, 70% and 90%,

Art Unit: 1643

respectively, of *its* amino acid sequence identical to the amino acid sequence consisting of SEQ ID NO: 5. Therefore, each of the claimed polypeptides comprises SEQ ID NO: 5, and the percent identity language serves to provide a limit on the length of the claimed polypeptide. In the case of claim 227, the limit on the length is 30 amino acids; in the case of claim 228, the limit is 21 amino acids; and in the case of claim 229, the limit is 16 amino acids.

Any inquiry concerning this communication or earlier communications from the Office should be directed to Anne Holleran, Ph.D. whose telephone number is (571) 272-0833. Examiner Holleran can normally be reached Monday through Friday, 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at telephone number (703) 571-1600.

ALANA M. HARRIS, PH.D.

PRIMARY EXAMINER


Anne L. Holleran

Patent Examiner

August 4, 2005